

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
AMBAC ASSURANCE CORPORATION,

Plaintiff,

- against -

EMC MORTGAGE CORPORATION,

Defendant.  
-----X

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 3/9/11

08 Civ. 9464 (RMB) (THK)

**ORDER**

Having reviewed this Court's Decision and Order, dated February 8, 2011 ("Order"), adopting in part Magistrate Judge Theodore H. Katz's Report and Recommendation, dated December 16, 2010; Defendants' motion to correct the judgment pursuant to Rule 60(a) of the Federal Rules of Civil Procedure, dated March 8, 2011 ("Motion"); and the applicable legal authorities, it is hereby

**ORDERED**, that the Motion [#125] is denied. Among other reasons, Plaintiff's proposed First Amended Complaint was attached as Exhibit 1 to the Declaration of Erik Haas in Support of Ambac's Motion for Leave to Amend the Complaint [#117], which was filed on the docket on July 28, 2010, and was the subject of extensive briefing and discussion. See e.g. Efam Enter., LLC v. Travelers Indem. Co. of Am., Inc., No. 02 Civ. 5360, 2003 WL 1960585, at \*2 (S.D.N.Y. Apr. 25, 2003); see also Komlosi v. Fudenberg, No. 88 Civ. 1792, 2009 WL 4722758, at \*4 (S.D.N.Y. Dec. 9, 2009) (Fed. R. Civ. P. 60(a) "may not be invoked where, as here, there is no clearly demonstrable mistake, oversight or omission" (internal citation and quotation marks omitted)).

Dated: New York, New York  
March 9, 2011

*RMB*

RICHARD M. BERMAN, U.S.D.J.